

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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United States of America,

Case No. 0:19-cr-303-SRN-KMM-1

Plaintiff,

v.

**ORDER**

Patrick Lloyd Henry  
Defendant.

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This matter is before the Court on motions for discovery and disclosure filed by the government and Defendant Patrick Lloyd Henry. The Court held a hearing on the Motions on January 13, 2020. Based on the motions that were filed, the written responses, and the arguments presented at the hearing, the Court enters the following Order.<sup>1</sup>

**1. Government's Motion for Discovery (ECF 18)**

The government's motion for discovery of information pursuant to Rule 16 of the Federal Rules of Criminal Procedure is **GRANTED**. The defendant shall provide discovery and disclosures as required by the Fed. R. Crim. P. 16.

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<sup>1</sup> The Court will separately issue a report and recommendation on Mr. Henry's Motion to Suppress Statements and Motion to Suppress Evidence. (ECF Nos. 22, 23.)

## **2. Mr. Henry's Motion for Discovery (ECF No. 21)**

Mr. Henry's motion for discovery and inspection is **GRANTED** to the extent it seeks discovery and disclosure consistent with Fed. R. Crim. P. 16. The government shall continue to comply with its discovery and disclosure obligations.

## **3. Mr. Henry's Motion for Disclosure of Favorable Evidence (ECF No. 24)**

Mr. Henry's motion for disclosure of favorable evidence is **GRANTED**. The government is obligated to disclose evidence favorable to Mr. Barnes as required by *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and their progeny. These cases place an ongoing obligation on counsel for the government to disclose exculpatory evidence and impeachment material to Mr. Henry.

## **4. Mr. Henry's Motion for Disclosure of 404(b) Evidence (ECF No. 25)**

Mr. Henry's motion for disclosure of Rule 404(b) evidence is **GRANTED**. The government shall disclose any evidence it intends to offer at trial pursuant to Fed. R. Evid. 404(b) at least **two weeks** before trial.

## **5. Mr. Henry's Motion for Disclosure of Jenks Act Material (ECF No. 26)**

Mr. Henry's motion for early disclosure of Jencks Act material is **DENIED**. The Jencks Act provides that the government "need not produce Jencks statements prior to a witness' testimony on direct examination." *United States v. Douglas*, 964 F.2d

738, 741 & n.2 (8th Cir. 1992) (citing 18 U.S.C. § 3500(b) and discussing the government’s option to make earlier voluntary disclosure, such as through an “open file policy”). However, the government is strongly encouraged to disclose any Jencks Act material as early as possible. To the extent any Jencks Act material has not yet been shared, the government has agreed to provide it to the defense no later than three working days before trial.

Date: January 23, 2020

*s/Katherine Menendez*

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Katherine Menendez

United States Magistrate Judge